

## **A Plaintiff's Lawyer's Perspective of Practice Before Judge David A. Katz**

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When one considers Judge Katz's legacy as a federal judge, on the surface, one could objectively state that he successfully managed and resolved two major Multidistrict Litigation (MDL) cases, both of which were the subject of national attention and scrutiny. But Judge Katz had a much more profound legacy on the practice of law and the relationship between courts and lawyers that can only be understood by how he mastered these complex relationships.

When Judge Katz received his first federal MDL assignment, there existed the typical dysfunction, lack of trust, and separation between the various groups of plaintiffs and defense lawyers in state and federal courts. Many state court leaders declined coordination with the federal MDL. In fact, in Judge Katz's first MDL, I was one of them. From the plaintiffs' perspective, coordination puts at risk the rights and opportunities to conduct discovery, set trials, and control resolution.

Once Judge Katz accepted his first MDL assignment, he slowly turned dysfunction into function, distrust became reason, and isolation and self-interest became unity and team spirit. By the end of both litigations, there existed what I can best describe as a "tangible and enjoyable trust" between the national working plaintiffs' bar and Judge Katz. The working group of state court lawyers genuinely liked going to meet with Judge Katz. As between the plaintiffs and the defense, he pushed us to turn blind advocacy into problem-solving, while he developed mutual respect among the various courts.

So, how did he do it?

It is impossible to codify Judge Katz's charm and charisma into a set of rules, but it is possible for all of us to learn from how he approached leadership. Judge Katz used relentless communication to build consent. He traveled to meet state court judges. He held joint hearings with these judges. Even though he had a very specific plan, he refused to impose his will on others. He provided real information that allowed the state court judges to know what he knew so they could make their own independent decisions. He is the first judge to use the phrase "state-federal cooperation." He understood federalism and knew that a voluntary action like cooperation is dependent upon personality and trust. So he worked to interconnect and empower state court judges with facts, while he eagerly listened to their ideas to adjust his own plans.

As for opposing counsel, he forced dialogue. He called cell phones to try to find common ground. He emailed and texted in the middle of the night

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when he thought we were off course. He had opposing counsel sit across from each other around a small conference room table in his chambers. Sometimes ten or fifteen of us would communicate in front of him. He would start with some personal anecdote about his lovely wife that sometimes held a message relevant to that day's discussion. Her "apparent" disappointment with him was often a subtle hint to us. Unreasonable positions promptly became reasonable solutions, especially when followed by his favorite clause, "It seems to me . . . ." When Judge Katz was disrespected, he would display even more respect. It became difficult to be difficult when the man in charge humbly provided solution after solution.

Judge Katz brought his devotion to his wife, his family, and his long-time career law clerk Cathy Garcia-Feehan to the courtroom. He sincerely believed that problems could be solved with empathy, communication, hard work, and some subtle guidance. He did not think of us as fighting lawyers, but as family that needed some assistance on a journey. He inspired us to be better people, not just better lawyers, as we traveled on this journey with him.